

Appl. No. : 10/789,437
Filed : February 26, 2004

REMARKS

Claims 1-40 remain pending and are presented for further examination.

I. Discussion of Rejection of Claims 1-40 Under 35 U.S.C. § 103(a)

In paragraph 3 of the Office action, the Examiner rejected Claims 1-40 under 35 U.S.C. § 103(a) as being unpatentable over Burns (US 6,526,173) in view of Gorodnichy (US 2005/0047662 A1). In rejecting independent Claims 1 and 20, the Examiner noted that “Burns differs from the claims in that it does not specify identifying a plurality of points having at least one related characteristic based, at least in part, on numerical differences between the first and second frames.” *O.A. at page 3*. The Examiner argued that “Gorodnichy teaches determining linear translation when the difference between pixels in a first image and a second image exceeds a predetermined threshold (page 5, claim 21) such that it would have been obvious to an artisan of ordinary skill to incorporate such identifying based on numerical differences, as taught by Gorodnichy, within the method of Burns when determining linear translation.” *Id.*

A. The Law of Obviousness

To establish a *prima facie* case of obviousness, three basic criteria must be met: (1) there must be some suggestion or motivation to combine the reference teachings, (2) there must be a reasonable expectation of success, and (3) the references when combined must teach or suggest all of the claim limitations. *See M.P.E.P. § 2143*. It is well settled that “a showing of a suggestion, teaching or motivation to combine the prior art references is an ‘essential component of an obviousness holding’.” *See, e.g., Brown & Williamson Tobacco Corp. v. Philip Morris Inc.*, 229 F.3d 1120, 1124-25, 56 U.S.P.Q.2d 1456, 1459 (Fed. Cir. 2000). The Examiner can satisfy the burden of showing obviousness of the combination “only by showing some objective teaching in the prior art or knowledge generally available to one of ordinary skill in the art would lead that individual to combine the relevant teachings of the references.” *In re Fitch*, 972 F.2d 1260, 1265, 23 U.S.P.Q.2d 1780, 1783 (Fed. Cir. 1992). “Determination of obviousness cannot be based on the hindsight combination of components selectively culled from the prior art to fit

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the parameters of the patented invention.” *ATD Corp. v. Lydall, Inc.*, 159 F.3d 534, 546 (*Fed. Cir.* 1998).

B. Neither Burns nor Gorodnichy, either Alone or in Combination, Teaches or Suggests all of the Limitations of Claims 1 and 20

With respect to Claim 1, Applicant respectfully submits that neither Burns nor Gorodnichy, either alone or in combination, teaches or suggests “identifying a plurality of points having at least one related characteristic in at least one of the first and second frames based, at least in part, on numerical difference between the first and second frame” as recited in Claim 1. The Applicant notes the language in page 5, claim 21 of Gorodnichy merely teaches determining that a first pixel is different from a second pixel based on a difference between the pixels. Such difference is not related to “identifying a plurality of points having at least one related characteristic in at least one of the first and second frames based, at least in part, on numerical difference between the first and second frame” as recited in Claim 1.

Therefore, it would not have been obvious to one of ordinary skill in the art to recognize the invention of Claim 1 in view of Burns and Gorodnichy. Withdrawal of this rejection is respectfully requested.

With respect to Claim 20, the Applicant submits that neither Burns nor Gorodnichy, either alone or in combination, teaches or suggests “an identifier circuit”, “a compare circuit”, and “a processing circuit”, as recited in Claim 20. Therefore, it would not have been obvious to one of ordinary skill in the art to recognize the invention of Claim 20 in view of Burns and Gorodnichy.

Since each of Claims 2-19 and 21-40 depends either directly or indirectly on one of Claims 1 and 20, the Applicant submits that those claims are also allowable.

II. CONCLUSION

Applicant has endeavored to address all of the Examiner’s concerns as expressed in the Office Action. Accordingly, arguments in support of patentability of the pending claim set are presented above. Applicant submits that the claim limitations above represent only illustrative

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distinctions. Hence, there may be other patentable features that distinguish the claimed invention from the prior art.


In view of the foregoing, Applicant respectfully requests reconsideration and withdrawal of the outstanding rejections and, particularly, that all claims be allowed. If the Examiner finds any remaining impediment to the prompt allowance of these claims that could be clarified with a telephone conference, the Examiner is respectfully invited to call the undersigned.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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